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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

MALIBU MEDIA,LLC, Plaintiff v. ROBERT WALLER, Defendant	Civil Action No.:2:15-cv-03002-WHW-CLW

MOTION TO SET ASIDE DEFAULT
AGAINST DEFENDANT ROBERT WALLER

Defendant, Robert Waller ("Defendant"), by and through undersigned counsel, and pursuant to Fed. R. Civ. P. 55, hereby files Motion to Set Aside Default Against Defendant Robert Waller in response to the New Jersey District Court's "Entry of Default as to Robert Waller for failure to plead or otherwise defend" as entered on November 9, 2015.

Pursuant to the meaning of "good cause" as defined within, *Rule 55(c) of the Federal Rules of Civil Procedure*, Defendant has demonstrated sufficient cause to set aside the default against Defendant in this action based on the Memorandum of Law in Support of Motion to Set Aside Default Against Robert Waller ("Memorandum"):

1. As alleged in the attached Memorandum, Defendant has meritorious defenses to the claims asserted by Plaintiff in Plaintiff's Amended Complaint filed on August 11, 2016. (ECF No. 6). Accordingly, this matter should be determined on the merits rather than by default.

2. The failure to respond within the time allotted was understandable and within the meaning of excusable neglect, given that Defendant was pro se, and was only recently able to retain counsel.

3. It would be an injustice to set aside the default under the circumstances of this case because Defendant has a valid defense to the claim asserted, as shown in the Supporting Memorandum of Law attached to this motion.

4. Plaintiff, Malibu Media, LLC, will not be prejudiced by the granting of relief because Defendant has timely moved to have the default set aside prior to any entry of default judgment and granting would the Motion would not affect Plaintiff's ability to plead the case on the merits.

WHEREFORE, Defendant, Robert Waller, respectfully requests that the default entered on November 9, 2015 be set aside. This motion is based on this document, the Notice of Motion, the accompanying Memorandum of Law, on all of the pleadings and papers on file in this action, and on whatever evidence and argument is presented at a hearing on this motion.

By: */s/ Patricia Lawrence Kolaras*
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PLEASE TAKE NOTICE Robert Waller, Defendant will move before the Honorable William H. Walls, U.S.D.J. on February 19th, 2015 for an Order to set aside the grant of default filed on November 09, 2015.

In support of my motion, I will rely on the attached brief.

Patricia Lawrence Kolaras, Esq
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Date: December 23rd, 2015